

DUNBARTON ZONING BOARD OF ADJUSTMENT
Monday, July 10, 2023 ~ 7:00 p.m. ~ Town Office

MINUTES OF MEETING

Vice Chair Jim Soucy called the meeting to order at 7:00 p.m.

Attendance: Secretary Alison Vallieres, Dan Dal Pra, Matthew Delude, Vice Chair Jim Soucy
Chair John Trottier and Alternate Derrick Labranche were unable to attend.

Mr. Soucy stated that the board is one member shy of a full board this evening. He said they do have a quorum; however, it is up to the applicants if they choose to go forward this evening or continue their application to the next meeting. Applicants and their attorneys were given a few minutes to step out of the room for discussion.

Approval of previous meeting minutes: Matthew Delude said the minutes were very detailed and he was okay with them. **Dan Dal Pra made a motion to approve the minutes of May 8, 2023 as presented; Alison Vallieres seconded the motion. Majority were in favor; Jim Soucy abstained as he was not present at that meeting.**

Application #2023-ZBA-002, Michael J Guiney – Appeal of Administrative Decision of the Dunbarton Building Inspector for the issuance of a building permit to David A Nault for Lot B6-01-09. Attorney Pat Panciocco requested that the application be continued to the next meeting. **Dan Dal Pra made a motion to continue Application #2023-ZBA-002 to August 14, 2023, 7:00 p.m. at the same location. Matthew Delude seconded the motion. All were in favor.** There will be no further notification.

Application #2023-ZBA-003, Gazaway Family Revocable Trust – Variance to Section 4, II Table of Uses – Footnotes; allow the construction of a duplex on 6.7 acres where 7.0 acres is required.

Vice Chair Soucy asked if all postings had been done properly. Donna reported that the notice was published in the Concord Monitor on June 28th, certified abutter notices were mailed on June 26th, and the agenda was posted on two bulletin boards and the Town's website.

Attorney Maria Dolder introduced herself as the agent for David Gazaway, also present. Attorney Dolder stated that a duplex is allowed by right on a parcel of at least seven acres. She said this parcel is listed as 6.7 acres on the Town assessment records, thus the request for a variance. Ms. Dolder said they have a subdivision plan where the parcel is depicted as seven acres. She explained that Mr. Gazaway plans to have his mother live in one half of the duplex, moving her from another state to be closer to their home in Bow. The other half of the duplex would be a rental unit, helping with the need for affordable housing units in the area. Ms. Dolder said the rear property line of the parcel is the town line with Bow, a driveway permit has been issued by Town's road agent, and the lot will be served by a private well and septic.

Attorney Dolder went through the points of the application. (Attorney's full text is attached at

the end of these minutes). Ms. Dolder said this has been considered a buildable lot for many years, noting there has been a structure on it since at least 2005 according to the tax card.

Jim Soucy asked if there is a larger plan of the parcel available. Ms. Dolder said she did not have anything other than what was submitted with the packet. There was brief discussion about the plan, the garage on the pre-existing lot of record, and that Mr. Gazaway purchased the property in 2017. Dan Dal Pra said it would appear this is a non-conforming lot because of the frontage. Ms. Dolder said there was a subdivision done in 1974, thus making this a pre-existing lot of record which has been taxed as a buildable lot for years. She said there was a 14.2-acre parcel what was subdivided into lots of 7.2 and 7 acres. Ms. Dolder said she is not sure how this lot came to be 6.7 acres on the Town's records.

Brian Arsenault, Building Inspector for the Town, spoke about the need for a surveyed plot plan showing wetlands, ledge, well radius, septic, etc. and the lack of a deed. It was clarified that a deed showing the lot as 6.7 acres was submitted with the application. Based on testimony about an elderly person living at the property, he recommended that the structure be of single-story architecture. Maria Dolder said the plot plan is certified as seven acres; however, the deed and Town map show it as 6.7 acres. She said as a residential use, a site plan would not be required. Ms. Dolder said a single-family dwelling would not require any plan, and this duplex would be built in the same manner and process any residential structure would be built. Matt Delude asked if Alan Moody, whose name is on the submitted plan, is a licensed surveyor. Ms. Dolder said he is a surveyor. Dan Dal Pra said the plan is not certified as it is not stamped and does not show all of the required details. Alison Vallieres asked for the date of the plan. It was determined that the plan was not dated. Ms. Dolder said the plan was done to convey the land and provided as part of title when her client purchased the lot in 2017.

Donna was asked to call the abutters.

Town of Dunbarton: No response

Jeffrey & Betsy Williams Trust, 1010 Montalona Road: Mr. Williams said he would question the logic of issuing a driveway permit for this lot since it has substandard frontage and sight distance concerns. He spoke about the potential of two families living on the property, save travel, and school buses. Vice Chair Soucy said it has been represented by the applicant that a driveway permit has been issued. He asked if Mr. Williams had taken any measurements. Mr. Williams said he did not. Attorney Dolder said the Town's road agent went to the property, checked sight distances, and issued the permit months ago. Brian Arsenault spoke about the concern of sight distance and mentioned again that a certified plot plan would show a home, well, wetlands, and driveway location. He said the ZBA should have the ability to view all that information and perhaps suggest the driveway be moved this way or that. Ms. Dolder said those are all Planning Board issues, particularly for commercial projects, not the Zoning Board's. She stated that this is a residential use, where a duplex is allowed, and this board does not have the authority to say where things go. The Vice Chair asked the road agent if he cared to speak to the question. Jeff Crosby said he was at the site and found the sight distance requirement of 200' to be met. He said there are a lot of driveways in the area, similar to this location on the 30-mph road, and it meets the requirements. Mr. Crosby said the Town cannot control how people drive or where the bus stops. Jim Soucy noted that the driveway would be on the outside of the curve where a driver could see longer distances. He said, according to the road agent, there is sufficient sight distance in both directions, and he understands it is on a hill, however, the

board has a well-defined list of what they are able to look at. He said the Board relies on the applicant and the road agent that set standards have been satisfied.

Sally Wuellenweber and Vasilios Gegas, 1008 Montalona Road: Ms. Wuellenweber said she has photographs of where the driveway is located if board members would like to see them. She said the pitch and angle of the driveway is dangerous, and they have to assist people out of the ditch there all the time, stressing that safety needs to be considered. Mr. Gegas (goes by Bill) said he would encourage the board to table the application or consider it incomplete due to the lack of a certified plot plan. He said he looked up Alan Moody but did not find him listed as a licensed land surveyor, thus making it a useless plan which warrants rejection of this application. Mr. Gegas spoke about doing deed research, the matter of the lot being short of the required frontage, the parcel being a non-conforming lot, and his findings that this is not a lot of record. He explained that he did a full outline of his research and sent that to Donna White in the Planning & Zoning Office, copying Town Administrator Line Comeau on the email of May 19, 2023. Mr. Gegas talked about Article 4 of the Zoning Ordinance, the lot previously being referred to as Lot 209-A-1, now E6-02-02, and no clear explanation was found as to how or when the lot number and acreage were changed. Mr. Gegas read from his outline (attached at the end of these minutes). He said this is not a buildable lot of record based on his research.

Ms. Wuellenweber said there are no additional minutes saying the two lots were separated and no record of when it became Lot E6-02-02. She said she wonders if it was legally subdivided. Matt Delude asked what the last date was where the lots were shown as one parcel. Mr. Gegas said he believed it was on Plan #4300 done in 1976. Ms. Wuellenweber said the first plan recorded showed it as two parcels, then the Planning Board had Morris Foote amend it to the plan that shows one shaded parcel.

Alison Vallieres asked how Mr. Williams sold a lot if it was not subdivided. Jeff Williams said he always knew it as two lots and has always been taxed as two lots. Bill Gegas submitted a packet of his research documents to board members.

Vice Chair Soucy asked if there was anything else to cover before moving on to the next abutter. Mr. Gegas said they have responses to the application. He said they are essentially in opposition to the request, citing reasons as the driveway permit, not the required frontage, does not meet non-conforming lot requirements, and these matters should be resolved. Mr. Gegas gave an overview as follows: a) stated that the applicant's mother will live in one half of the duplex; there is no guarantee that will be the case. Accessory dwelling units are allowed in Bow where the applicant lives. The point of it adding to affordable housing is unsubstantiated. b) the driveway location is dangerous. c) assumed private well and septic; d) five criteria are undeterminable without a certified plot plan; e) the parcel is over an aquifer per the 2019 Master Plan; f) 6.7 acres is very likely not accurate. GIS maps it closer to six acres. g) Blanding turtles have been seen in the area.

Sally Wuellenweber said their house was built in 1803. There is a row of single-family homes along that stretch, and a duplex is not in the spirit of the Zoning Ordinance. She has concerns about the number of people and the water supply.

Thomas and Tomi Salzmann Revocable Trust, 290 Robert Rogers Road: Mr. Salzmann said they have lived at this address for 21 years and agree completely with Sally and Bill. He noted that there is no certified plot plan, and the plan that was submitted does not list any abutters or show any context to where the property lies. He said the lot's narrowness makes it a very tight relationship

between it and the abutter's lot which is also long and narrow. He said it is not obvious on the plan that there is a garage on the land and had he known that he would have walked the land to better understand the layout. Mr. Salzmann said he would take a walk around the lot now that he has more information. Mr. Salzmann said the driveway would be harsh, there are wetlands they'd have to get over, and this seems like an unusable back lot which is maybe why Mr. Williams subdivided it off his parcel. He said Robert Rogers is a poor access and wonders why the frontage could not be on Line Hill Road. Mr. Salzmann said he wished there was more genuineness in the presentation, saying you cannot expect to put a duplex next to a 200-year-old house that is a piece of history. He said it cannot be said that nothing will be different or affected.

Scott and Karen Harrington, 1030 Montalona Road: Mrs. Harrington said the driveway will be very dangerous.

Wendy S Gazaway: not present

Steven and Ileana Post: not present

Maria T Dolder, Esquire: applicant's agent

Patricia S Mahoney Revocable Trust: not present

Sassenberg Family Revocable Trust: not present

The Gazaway Family Revocable Trust: applicant

Town of Bow: no response

Carol J Bailey 2013 Revocable Trust: not present

Vice Chair Soucy said, with everything that has been presented, in addition to the packet submitted by Mr. Gegas, there has been a lot of information provided. He asked Ms. Dolder if she had the additional documents. She said she has some of them but not the entire package so maybe she could get copies from the Office. Mr. Soucy said he would like to offer the applicant the opportunity to give a detailed response to the packet submitted by Mr. Gegas. He outlined the options as: 1) continue the hearing until the next meeting; 2) go through the hearing and render a decision tonight; or 3) withdraw their application, obtain a certified plot plan, and resubmit.

Attorney Dolder said before he purchased the property, Mr. Gazaway had a conversation with the town administrator to verify it was a buildable lot; he was told it was. She said they have two plans showing the lot, the lot was given a lot number and put on the tax map by the Town at least 23 years ago, and Mr. Gazaway has been paying taxes on a buildable lot, as did the prior owner. She said she does not feel that the prior owner would have sold her client a lot that had not been properly subdivided, adding that her client had title and title insurance. Ms. Dolder said a lot of what has been raised, wetlands, impact, etc., would typically go through the building department for a building permit, not this board. She said a plot plan was given to the board to give them an idea of what the lot looks like, noting she has seen hand drawn plans submitted to the ZBA in the past and that the board has the ability to waive items. Ms. Dolder said a certified plot plan for residential use does not go to the full extent as it is not a site plan. The attorney said a lot of comments have been made that are outside the jurisdiction of the ZBA, whose role is to approve the use. Jim Soucy agreed that items such as wetlands and turtles may not be subject to review by this board but should still be considered by the proper agencies/departments. She said the applicant still has to go to the building department, and that is where a lot of this is done. Ms. Dolder said a driveway permit was issued months ago because it met the requirements, and it cannot be appealed at this point. Vice Chair

Soucy said the appeal period might start at the time others became aware of the permit.

At the suggestion of board members, Attorney Dolder and Mr. Gazaway stepped out of the room to discuss how to proceed. Upon returning to the meeting, Ms. Dolder reminded those in attendance that this lot is private property, not a play area or public land. She said her client would ask to continue the hearing to the September meeting, giving them time to get a certified plot plan and check on the title insurance matter. **Dan Dal Pra made a motion to continue Application #2023-ZBA-003 – Gazaway Family Revocable Trust – Variance to Section 4, II Table of Uses – Footnotes to the meeting of September 11, 2023 at 7:00 p.m. in the same location. Additional materials are to be submitted to the Office at least three weeks prior to that meeting. Alison Vallieres seconded the motion. All were in favor.** There will be no further notification.

An abutter to the Gazaway parcel noted that a certified plot plan is to be recorded at the Merrimack County Registry of Deeds. The board discussed the definition as written in the Zoning Ordinance, noting that these plans have not been recorded in the past, and agreeing that the definition should be revised. It was agreed that the provision could be waived.

Adjournment: Having no further business, **Dan Dal Pra made a motion to adjourn the meeting at 9:06 p.m.. Jim Soucy seconded the motion. All were in favor.**

Respectfully submitted,
Donna White, Office Administrator

Facts supporting this request:

1. Granting the variance would not be contrary to the public interest because: To be contrary to the public interest, the variance must unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives. To ascertain whether granting the variance would violate basic zoning objectives you must examine whether it would alter the essential characteristics of the neighborhood or would threaten the public health, safety or welfare of the public. The Applicant's requested variance does neither. As stated above, the ultimate use being proposed is permitted under the Zoning Ordinance by right. It is only the fact that the Property is .3 acres under the required lot size requirements that triggers the variance for the proposed use. It is important to remember that even though the Property does not meet the acreage requirement to establish a duplex on the Property, it is still a very large lot at 6.7 acres and therefore, will not cause the area to become overcrowded or overdeveloped.

Given all of this, constructing a duplex on the Property will not alter the essential characteristics of or adversely impact the neighborhood nor will it create any safety hazards to the public.

In addition, there is a lack of affordable housing available within the State of New Hampshire. Granting this variance will allow the Applicant to construct a duplex, within an area of the Town in very close proximity to the abutting Town of Bow, providing easy access to local roads and the state highway system. This is an example of how this proposal would actually benefit the public interest.

2. If the variance were granted, the spirit of the Ordinance would be observed because: Once again, the Property is located in the LDR District and the use being requested is permitted by right. Even though the Property doesn't meet the lot size requirements for a duplex, the Applicant will meet the setbacks required within

the zoning district, as well as the lot coverage requirement. In fact, the difference between what is required and what is being proposed is minimal. Even with the requested variance relief, the duplex as proposed will be consistent in design and location with the general neighborhood. There shall be no noticeable difference to the area nor any reasonable purpose to prohibit the Applicant from constructing a modest duplex on the Property. Among others, some of the stated purposes of the Zoning Ordinance are to prevent overcrowding of land and buildings and to avoid an undue concentration of population, while one of the recommendations of the Town of Dunbarton Master Plan is to provide for a diversity of housing opportunities within the Town. This proposal is in direct keeping with such purposes since, even with the requested relief, it is a large wooded lot with direct access to a Class V road, as well as access to the abutting Town of Bow. Similarly, this would allow for at least one additional housing unit in a time where the State of New Hampshire is experiencing a housing crisis. This is in keeping with the Town of Dunbarton Master Plan. Since the Zoning Ordinance would allow a duplex to be built upon the Property if it had an additional .3 acres, under such circumstances, it is not contrary to its spirit and intent to permit this proposal. Accordingly, the variance relief being requested is not contrary to the spirit and intent of the Zoning Ordinance, but instead, will allow the property to be utilized in a manner consistent with the permitted uses in the District and not contrary to the neighborhood itself. As an additional point, there is a duplex on Morse Road that is located on a lot that consists of only 5.35 acres which is a significantly smaller lot than what the Applicant is proposing in this case and another one on Robert Rogers Road which is on a lot consisting of 6.65 acres.

3. Granting the variance would do substantial justice because: One of the guiding rules in evaluating substantial justice is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. Under this standard, the Applicant clearly satisfies this requirement. If the Town were to deny the

Applicant's request to construct a duplex on the Property, this would result in a tremendous loss to the Applicant without any justified gain to the public. In fact, given that the proposal would not only be in keeping with the spirit and intent of the Zoning Ordinance, but it would provide an additional dwelling unit, something that is much needed within the Town, this would be seen as creating a gain to the general public.

Substantial justice is also achieved by granting variances which do not adversely impact on nearby property owners and which allow a property to be used reasonably. As stated above, even with the requested relief, the difference between that required under the Ordinance and that provided shall not create any adverse affect on the adjoining neighborhood. As previously stated, the Property will be used in a manner consistent with the general area and the large size of the lot will allow the duplex to be placed on the Property in a location that shall not impact nearby property owners. As a result, there will be no adverse impact to the neighboring property, but instead, will allow the Applicant to utilize the property in a reasonable, consistent manner, resulting in substantial justice.

4. If the variance were granted, the values of surrounding properties would not be diminished because: As previously stated, the Property is located within the LDR District and the use being proposed is permitted. The Applicant shall meet the setback requirements of the Zoning Ordinance and when constructed, will be aesthetically attractive and will fit into the area. In addition, the Applicant will be able to locate the duplex on the Property in a manner where much of the lot can remain forested and provide a natural buffer. In fact, the difference between a large single family residence and a duplex shall not create any noticeable difference for the surrounding properties and once again, shall not result in any diminishment of the surrounding property values.

5. Denial of the variance would result in unnecessary hardship to the owner because:

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

- a. No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property because: The Property is unique in its location, and also in its size and shape. Although the Property is 6.7 acres in size, its shape creates a circumstance where the rear boundary line is the Town line between Dunbarton and Bow and its awkward shape and orientation makes it almost like a back lot. With that said, the Property does have frontage on a Class V road and the Applicant has already obtained the required driveway permit. The Property is located within the LDR District and the proposed use of the Property is permitted by right and consistent with the area and its neighborhood. It is only due to the fact that the Property is .3 acres short of the required size that a variance is required for this use. The use being proposed will allow the Applicant to not only utilize the Property in a reasonable manner, but consistent with the goal of providing reasonable housing opportunities. Even with a duplex on this Property, its large size and primarily wooded area will allow the duplex to be constructed while still maintaining a large area of the Property as forested. Accordingly, the zoning restriction as to use for a duplex is unreasonable given the specific and unique characteristics of the Property in its shape, size and location. Given all of this, there clearly is no fair and substantial relationship between the general purposes of the Zoning Ordinance and the specific restrictions on the Property.
- b. The proposed use is a reasonable one because: As already stated, the proposed use of the Property is a permitted use in the LDR District, and the difference between what is required under the Zoning Ordinance and what will be provided is minimal. In fact, the construction of a duplex, as opposed to a single family home,

will not be noticeable to the neighborhood nor the general area. Given that the property is only .3 acres short of the required lot size, the minimal difference will not be visible nor have any adverse impact, therefore there is no fair justification to deny the Applicant the ability to build a duplex on the Property. Since the proposed duplex will not encroach on any of the setbacks required under the Zoning Ordinance, it shall not adversely impact the neighborhood or surrounding properties, nor will it alter the essential characteristics of the neighborhood or the Property itself. Instead, it will allow the Property to be used for and in the same spirit as is expressed in the Zoning Ordinance, with no adverse impact on the environment or the general area. Accordingly, the proposed use is a reasonable one.

OR

- B. Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to enable a reasonable use of the property because: The Property is unique in its location and also in its size and shape. Although the Property is 6.7 acres in size, its shape creates a circumstance where the rear boundary line is the Town line between Dunbarton and Bow and its awkward shape and orientation makes it almost like a back lot. The Property is located within the LDR District and the proposed use of the Property is permitted by right and consistent with the area and its neighborhood. It is only due to the fact that the Property is .3 acres short of the required size that a variance is required for this use. The use being proposed will allow the Applicant to not only utilize the Property in a reasonable manner, but consistent with the goal of providing reasonable housing opportunities. Even with a duplex on this Property, its large size and primarily wooded area will allow the duplex to be constructed while still maintaining a large area of the Property as forested. Accordingly, the zoning restriction as to use for a duplex is unreasonable

given the specific and unique characteristics of the Property in its shape, size and location.

May 19, 2023

Donna White
Town of Dunbarton
Building Department
1011 School Street
Dunbarton, NH 03046

Greetings, Donna;

I am following up on our previous conversations regarding Mr. Gazaway's property, which is currently identified as Lot E6-2-2. Mr. Gazaway received a permit from the Town to construct a driveway off Robert Rogers Road for a single-family house or duplex. The tax records show Lot E6-2-2 is 6.7 acres and has 149' of frontage on Robert Rogers Road. The dimensional regulations in the Ordinance requires at least 300' of frontage and construction of a duplex would require at least 7.0 acres. Mr. Gazaway's property fails to meet both of these requirements.

You had previously suggested that Lot E6-2-2 would not need to meet the frontage requirement because it is a "lot of record," and would therefore need only a variance for the lot size requirement if a duplex is constructed. I do not believe Lot E-6-2-2 meets the standard in the Ordinance for a "lot of record."

ARTICLE 4. USE AND DIMENSIONAL REGULATIONS

C. Nonconforming Lots (Adopted/Amended at March 8, 2005 Town Meeting):

1. Structures shall be permitted on a lot having frontage or an area which is less than that required by the Table of Dimensional Regulations if said structure is permitted by right within that district and if all the following provisions (a. thru e.) are met:

a. The lot was a parcel of record that is: a.) shown on an approved plan, or b.) described within an historical deed; either of which shall have been duly recorded at the Merrimack County Registry of Deeds prior to the effective date (March 10, 1970) or applicable amendment of this Ordinance.

Lot E6-2-2 was never identified as an individual, stand-alone parcel in any plan or deed recorded at the Merrimack County Registry of Deeds (MCRD) prior to the effective date (March 10, 1970) or amended date (March 8, 2005) of this section of the Ordinance. This is clear based on a review of the recorded documents listed below..

Exhibit A:

MCRD Book 0917 Page 0167 (July 8, 1960)

Quitclaim deed providing fee simple title to R. Williams of certain parcels of land in Bow and Dunbarton, further described in Exhibit B, below.

Exhibit B:

MCRD Plan #4251, "PLAN Land of Ralph E. Williams, Bow and Dunbarton, NH" revised November 18, 1975" (recorded January 23, 1976), which includes Lot #209A, 54.8 acres (36.3 + 4.3 + 7.0 + 7.2).

Exhibit C:

Dunbarton Planning Board, January 21, 1976 meeting minutes, 3rd item presented as:

Ralph E. Williams

Mr. Williams represented by Mr. Morris Foote of Bow

Request subdivision of one lot separated by Line Hill Road Bow-Dunbarton Line.

Lot # 209A-1 Total 14.2 Acres

In this request, one lot was to be subdivided from Lot #209A. The result was Lot #209A-1, having a combined acreage of 14.2 (7.0 + 7.2), with the two parts bisected by Line Hill Road. Exhibit B shows the "Z" land hook combining the two parcels bisected by Line Hill Road, a Class 6 road. The Board expressly noted that only one lot was subdivided:

*Open discussion was held relative to the Ralph E. Williams subdivision. Mr. Kettinger pointed out that in his opinion a subdivision had been created by the existing roads and that in fact normal subdivision procedures did not have to be followed for one lot. Selectman Peter Montgomery agreed as did the other board members. Chairman Hammond will call Mr. Morris Foote to convey the findings----**If Mr. Foote will agree to record the lot as one lot of 14.2 Acres rather than 7 Acres and 7.2 Acres, also to remove the words Minor subdivision from the plan.***

Thus, only one lot of 14.2 acres was subdivided, Lot #209A-1, and became a lot of record. The reference to a subdivision created by existing roads is to the 36.3 acre and 4.3 acre parcels being divided by Robert Rogers Road and Montalona Road. The full area of Lot #209A-1 is currently identified as Lot E6-2-2 owned by David Gazaway and Lot E6-3-1 owned by Jeffrey and Betsy Williams. The action by the Planning Board DID NOT establish either Lot E6-2-2 or Lot E6-3-1 as an individual "lot of record." I do not have an explanation for why Lot E6-2-2 is described as 7.0 acres at this point in time when it is currently listed as 6.7 acres, other than the likelihood that older land survey methods were not as accurate as they are today.

Exhibit D:

Dunbarton Planning Board, March 1976 meeting minutes confirm that there was agreement as to the one lot subdivision:

Page 3

Morris Foote:

Mr. Foote presented a map of Ralph E. Williams subdivision previously approved by the board.

Chairman and Secretary signed mylar.

Exhibit E:

MCRD Plan #4300 "PLAN Land of Ralph E. Williams, Bow and Dunbarton, NH" revised November 18, 1975, Added information on subdivision approval December 2, 1975" (recorded April 1, 1976).

The Morris Foote plan was revised as requested, signed by the Planning Board, and recorded in the registry of deeds. It clearly identifies Lot #209A-1 by use of shading, including the size of 14.2 acres, and bisection (but not subdivided) by Line Hill Road (with a "land hook" symbol tying the 7.0 and 7.2 acre tracts together as one). The two parcels now known as Lots E6-2-2 and E6-3-1 were recorded as one lot of record.

Exhibit F:

MCRD Book 1323 Page 0108 (June 26, 1978)

Quitclaim deed providing fee simple title to Jeffrey and Betsy Williams from Ralph Williams. Described within said deed as Lot #209A-1, depicted on Plan #4300 (Exhibit E), being 14.2 acres (Exhibit C), with metes and bounds consistent with Plan #4300. At no point does this describe any lesser or further subdivided lands.

Exhibit G:

MCRD Book 1720 Page 0451 (May 13, 1988)

Corrective Warranty deed by Jeffrey Williams following the execution of the will of Ralph Williams for the remaining lands of Ralph Williams to Jeffrey Williams. There is no further description of any further subdivision of the subject that would aid in qualifying current Lot E6-2-2 as a "lot of record" prior to the March 8, 2005 amendment of the Nonconforming Lots section of the Ordinance.

Exhibit H:

MCRD Book 3172 Page 0552; and Book 3172 Page 0555 (December 28, 2009)

Warranty deeds from Jeffrey and Betsy Williams to Jeffrey Williams trust, and Betsy Williams trust respectively. Conveys same 14.2 acres, Lot 209A-1, per Plan #4300. **This is the first recorded document in which the 14.2 acre single lot of record is described as two separate lots of record (Lots E6-2-2 and E6-3-1).** These deeds also describe the two lots as situate to 1010 Montalona Road. There is no mention that Lot E6-2-2 is situate to Robert Rogers Road (such a lot would be nonconforming due to insufficient frontage). **These recordings occurred after March 8, 2005, which means they do not create "lots of record" under the Nonconforming Lots section of the Ordinance.**

Exhibit I:

MCRD Book 3573 Page 1067 (October 13, 2017)

Warranty deed from the trusts of Betsy Williams and Jeffrey Williams to David and Wendy Gazaway for the conveyance of Lot E6-2-2, described as being 6.7 acres in size, as a portion of Lot 209A-1. **This is the first recorded document suggesting Lot E6-2-2 is situate to Robert Rogers Road.** Interestingly, Lot E6-2-2 contains a garage that is situate to Line Hill Road, the road providing access to this lot for approximately 40 years.

In conclusion, while there may be other issues, at a minimum it appears that a variance is required for the nonconforming frontage. If a duplex is to be built, a variance is also required for the nonconforming lot size.

Thank you for help and cooperation in resolving this matter.

Sincerely,

Bill Gegas
1008 Montalona Road
Dunbarton, NH 03046
603-774-7477